IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929

Crl.MC.No. 3195 of 2007()

CRIME NO.738/2005 PENDING BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT-II THIRUVANANTHAPURAM

PETITIONER: 2ND ACCUSED

MOHAMMED ALI, S/O.E.P.KUNJU KANNAN,
PHIMIX BAG, PORT BLAIR,
ANDAMAN & NICHOBAR ISLANDS.

BY ADV. SRI.G.SUDHEER

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM.

BY PUBLIC PROSECUTOR ADV.SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 05/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C.No. 3195 of 2007

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Dated this the 5th day of November, 2007

ORDER

The petitioner is the 2nd accused in a crime registered alleging offences punishable, inter alia, under Sec.302 read with 34 IPC. He was enlarged on bail subject to conditions. One of the conditions imposed is that the petitioner should not leave the Sessions Division of Trivandrum without prior permission of the Court. The petitioner was a student at the relevant time. He continues to be a student now, it is submitted. The petitioner has been compelled to remain here from 18.4.06 in connection with the case. The petitioner's mother is seriously ill. He wants to visit his ailing mother. The petitioner, in these circumstances, filed a petition before the learned Magistrate with a prayer that he may be permitted to proceed to the Andamon Nicober Island, where the petitioner's mother is residing and to return thereafter. Until then the condition that he should not leave the Sessions Division of Trivandrum may be kept under suspension, it was prayed.

2. The learned Magistrate by the impugned order did not grant the said prayer. It is in these circumstances that the petitioner has come before this Court with this petition.

3. I have heard the learned counsel for the petitioner. The learned counsel for the petitioner narrates the tale of woes that the petitioner has been forced to suffer because of this case. It is prayed that subject to any appropriate and further conditions, the petitioner may be permitted to go to his native island and return. Until then the conditions may be kept suspended. This in short is his prayer.

4. The learned Public Prosecutor opposes the application. His opposition is on the basis of the apprehension that the petitioner may abscond. Not withstanding the opposition by the learned Public Prosecutor, I am satisfied that subject to appropriate conditions, the petitioner can be permitted to proceed to his native place and return within a stipulated period of time.

5. In these circumstances, this Crl.M.C. is allowed. The condition imposed on the petitioner that he should not leave the Sessions Division of Trivandrum shall stand suspended till 01.01.08 on the following terms and conditions.

i) The petitioner shall report before the Investigating Officer on 01.01.08.

ii) In the meantime he shall report before the Superintendent of police , Port Blair on 19.11.07, 10.12.07 and 28.12.07.

Hand over a copy of this order to the learned Public Prosecutor and the counsel for the petitioner.

(R.BASANT, JUDGE)

sj